

These minutes are a summary of the discussion. The audible recording is available at the following website: <http://bit.ly/T3S7CB>

Planning & Zoning Commission Meeting
Minutes of June 5, 2013
1st Floor North Conference Room - City Hall

Present: Chairman Nathaniel Cannady, Vice-Chairman Jeremy Goldstein, Kristy Carter, Jim Edmonds, Jane Gianvito Mathews, Joe Minicozzi and Holly P. Shriner

Absent: None

Pre-Meeting - 4:30 p.m.

The Commission discussed the various items on the agenda. Associate City Attorney Jannice Ashley announced that a continuance until the September meeting was being requested by the petitioner on the Caledonia project appeal; and then went over the procedures for the variance request. The Commission determined which two Commissioners would not participate in the variance item, and Commissioner Goldstein announced he would need to be recused from the Coxe Avenue proposal as he has a client who is a part of that project. Staff announced that Code Studio had been selected as the consultant for the Haywood Road Form-Based Code project in West Asheville.

Regular Meeting - 5:00 p.m.

Chairman Cannady called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

Administrative

- ? Mr. Edmonds moved to approve the minutes of the May 1, 2013, meeting, with minor amendments. This motion was seconded by Vice-Chairman Goldstein and carried unanimously by a 7-0 vote.
- ? Vice-Chairman Goldstein moved to continue the conditional zoning request for 291 East Chestnut Street to July 18, 2013. This motion was seconded by Ms. Mathews and carried unanimously by a 7-0 vote.
- ? At the request of the petitioner's attorney, Ms. Carter moved to continue the appeal of a minor subdivision at 93 and 129 Caledonia Road to September 4, 2013. This motion was seconded by Ms. Shriner and carried unanimously by a 7-0 vote.

Agenda Items

- (1) **Downtown project variance - The project identified as YMCA Addition at 30 Woodfin Street is seeking a variance from UDO standards found in 7-8-18(f)(13) 'design and operational standards' concerning fenestration requirements for a proposed addition to an existing building. The property is identified in the Buncombe County tax records as PIN 9649-51-0876. Planner Coordinating Review - Alan Glines.**

Associate City Attorney Jannice Ashley explained the procedures for this item which requires the Commission to act as a Board of Adjustment (5 members) and all testimony needs to be sworn. At this time, Chairman Cannady handed the gavel over to Vice-Chairman Goldstein and Chairman Cannady and Mr. Edmonds left the room.

City Clerk Magdalen Burleson administered the oath of office to anyone who anticipated speaking on this matter.

Ms. Ashley said that the Commissioners must base their decision on this variance on what is presented in this public hearing. Mr. Glines may refer to parts of the previous presentation as staff has made certain findings and conclusions. The Commissioners are free to disregard those and make their own findings and conclusions. She asked that any Commissioner who has any special knowledge of this variance disclose that at this time.

Ms. Ashley also said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

Mr. Glines said that the applicant is requesting one variance pertaining to fenestration requirements found in the Central Business District (CBD) Section 7-8-18(f)(13)(a.)(5): "For buildings along streets that are not designated as key pedestrian streets, at least 50% of the street level façade is composed of windows doors and other openings."

The YMCA is proposing a small addition to the existing gym to provide a pool-level space for a new steam room and sauna. From an access standpoint, the addition is at the basement level of the structure and is accessed through the locker rooms. The applicant is seeking relief from fenestration requirements because of the special nature of the use and the existing orientation and setbacks of the building.

This fenestration requirement is a linear frontage requirement and not an 'area' requirement, to incorporate windows doors and other openings at pedestrian level along a street facade. The building façade along Central Avenue does not provide any fenestration because the uses inside are related to gym activities and the existing building is set back from Central by about 38 feet. The only entrance to the YMCA is located along the parking lot on the east side of the building which is on the opposite side from this proposed addition. The proposal is for a single-story addition extending 19 feet from the existing building façade along Central Avenue and 29 feet in length totaling 550 square feet to accommodate the addition of the sauna. To meet the UDO standard, 50% or 14.5 feet of this length would be provided as windows, doors and other openings to complement pedestrian scale activity. The applicant is seeking a variance of 100% of this requirement.

The proposal is a Level One Expedite project because of the small nature of the addition. Except for emergency exits, there are no other doorways that relate to the Central Avenue building façade. In addition the lower level of the gym is about 5 feet above the sidewalk level on Central Avenue.

Per the review process in Section 7-5-9.1(b)(10), the Downtown Commission provides a recommendation on all variance requests considered by the Planning & Zoning Commission. The Downtown Commission Design Review Subcommittee reviewed the plans at their meeting on April 25, and recommended approval of the variance request.

FINDINGS:

Conclusion 1 - There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.

Test 1 - If made to comply with the provisions of the ordinance, the property owner cannot make reasonable use of the property.

The fenestration standards in place are meant to activate the pedestrian environment and enhance the life on the street. The existing orientation and operation of the gym limits the connectivity to the street because the structure has a large setback from both Woodfin Street and Central Avenue and the entrance area is oriented to the parking lot which is to the side of the building. The gym is making needed renovations to enhance its operations and the provisions of the ordinance create a challenge to the reasonable use of the property.

Test 2 - The hardship of which the applicant complains results from unique circumstances related to the applicant's land.

The main entrance of the existing building is on the east side of the parcel and the area along Central Avenue functions as the back and is also 'below the grade' owing to the natural slope of the lot. The basement level where the pool and locker rooms are located is setback from Central Avenue and is also about 5 feet above the level of the sidewalk. The use of the addition is directly tied to the pool level and locker rooms. This existing orientation of the building away from the street and the natural slope of the land provide a unique circumstance that contributes to the need for a variance.

Test 3 - The hardship is not the result of the applicant's own actions.

The hardship is not the result of the applicants own actions because the building is existing and was constructed before the downtown development standards were in place. Because of the intended use as a sauna and steam room, an orientation to the Central Avenue façade with fenestration requirements met may not be either practical or desirable.

Conclusion 2 - The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.

The ordinance is in place to assure that new buildings and uses address the street and enhance the pedestrian environment. The orientation of the existing building on a corner lot does not encourage pedestrian interaction because of the setbacks from both streets. The natural slope of the lot and the area exposes the lower level of the gym but the locker room function is not an appropriate activity at street level. The addition is small and the request is reasonable based on the site, existing orientation of the building and the specific use. Granting the variance does not diminish the value of the ordinance or its applicability for most new construction in the downtown area.

Conclusion 3 - The granting of the variance secures the public safety and welfare and does substantial justice.

The requested variance for fenestration will not compromise public safety or welfare in any way, nor do they impact another property owner's use of their property. The addition is small and is a reasonable expectation as improvements are made to the existing building. By granting the variance that supports vitality of the existing use, substantial justice is assured.

The Downtown Commission design review subcommittee reviewed and supports the variance request. Staff also recommends approval of the requested variances: Granting a fenestration variance for the proposed addition totaling 100% of the UDO requirement.

Staff finds this request to be reasonable based on the unique circumstances of the site and orientation of the building and the natural slope of the lot.

Vice-Chairman Goldstein opened the public hearing at 5:14 p.m. and when no one spoke, he closed the public hearing at 5:14 p.m.

Ms. Mathews moved to approve the fenestration variance for the proposed addition totaling 100% of the UDO requirement for a proposed addition to an existing building for the YMCA Addition, located at 30 Woodfin Street finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Mr. Minicozzi and carried unanimously by a 5-0 vote (Chairman Cannady and Mr. Edmonds did not participate).

At this time, Chairman Cannady and Mr. Edmonds re-entered the room, returned to the dais and continued participation in the meeting.

- (2) Review of a Level II site plan for the project identified as the Chrysler Building located at 162 Coxe Avenue. The project proposes to develop a parking area, add streetscape improvements and develop 24 units and office space within the existing 27,391 square foot building. The property owners are Conabeer, LLC and Coxe Avenue, LLC and the contact is Mark Wilson, ASLA. The property is identified in the Buncombe County Tax records as PINs 9648-38-4172 and 9648-38-4263. Planner coordinating review – Alan Glines**

Due to a conflict of interest, Ms. Mathews moved to recuse Vice-Chairman Goldstein from participating in this matter. This motion was seconded by Ms. Carter and carried unanimously on a 6-0 vote (Vice-Chairman Goldstein did not participate in the vote). At this time, Vice-Chairman Goldstein left the meeting room.

Urban Planner Alan Glines oriented the Commission to the site location and said that the applicant is requesting review of site plans to renovate an existing building at 162 Coxe Avenue along with an associated parking area located in the downtown Central Business District.

This project development involves the renovation of a single building known as the Chrysler Conabeer Building which totals 29,000 square feet. The three story brick structure is a contributing building in the downtown national register district and was partially renovated in the past as a part of another proposed development. The proposed development is a downtown Level II project because of the scale of the building and because the use is new. Level II projects are reviewed by the Technical Review Committee and then are considered by the Downtown Commission for compliance with requirements of the UDO and the Downtown Master Plan. After this, the project will have a final review by the Planning and Zoning Commission who considers the requirements of the TRC and the recommendation of the Downtown Commission.

The project site consists of two parcels totaling .63 acre with an existing 29,000 square foot building that dates from the 1920's. The project includes the renovation of the building and the creation of a surface parking lot with 28 spaces. The new proposal will divide the ground floor area of the building for commercial uses and create 24 apartment units on the upper floors (12 units per floor). Twelve on-street parking spaces will be created along Buxton, Coxe, and Banks Avenues.

The existing building complies with all UDO standards for building setbacks, height and fenestration. There are sidewalks along the Chrysler building and while they are narrower than recommended in the UDO (the UDO recommends 10 foot wide sidewalks when new construction is proposed) they are large enough for practical use. Along Banks Avenue, a new sidewalk is proposed to be 6 feet wide and this width was approved by the City Traffic Engineer based on the

limited size of the right of way and considering other goals for on-street parking and minimal travel lane widths.

The project will provide a complete landscape upgrade including street trees and parking lot landscaping. The applicant was approved for alternative compliance for some landscape standards that are related to smaller planting areas than what is required in the UDO. The challenges to the planting areas are the result of working with a constrained site with existing features such as the existing building and the retaining wall in the open site. The long term health of the landscape materials is not expected to be compromised from the alternatives requested. The Tree Commission reviewed and approved the alternative compliance request at their meeting on May 20, 2013, after a recommendation of support from the Downtown Commission.

The project has frontage on 4 streets: the front of the building is on Coxe Avenue, The south side of the building is along Buxton Avenue and the parking area fronts on both Coxe Avenue and Banks Avenue. Collier Avenue crosses the rear of the parcel and has a limited right of way. The parking lot has its only access from Coxe Avenue.

Off-street parking is not required in the CBD but 28 parking spaces are being created as a part of this proposal along with 12 on-street spaces.

Landscaping consists of street trees along Coxe, Buxton and Banks Avenues. Parking lot landscaping will also be provided in the new lot. The Tree Commission approved an alternative compliance request for some landscape issues.

Staff recommends approval. The project meets (or will be able to meet) all technical standards. At their meeting on May 10, 2013, the Downtown Commission reviewed the project and considered the alternative compliance request and voted 8-0 to recommend approval.

There was a brief discussion, initiated by Ms. Mathews, about the on-street parking spaces becoming metered spaces over time in order to circulate parking. She felt because there is more development happening in that area, staff may want to think about the parking (and metering) that section of town. Planning & Development Director Judy Daniel said that staff is looking at that in some of their efforts regarding an Investment District.

Chairman Cannady opened the public hearing at 5:25 p.m. and when no one spoke, he closed the public hearing at 5:25 p.m.

When Mr. Minicozzi asked if there was any discussion at the Downtown Commission about having access off Collier Avenue, Mr. Glines said that there was no discussion but there is quite a grade change in the back of the property.

Mr. Minicozzi wondered if there has been any conversation about partnering with developers in the area with possible a synthetic TIF. Mr. Glines agreed that the area does need extra support and the City is considering an Investment District; however, the City is fiscally unable to move forward with that at this time but will as soon as possible.

Ms. Shriner moved to recommend approval of the Level II site plan for the Chrysler Building located at 162 Coxe Avenue to develop a parking area, add streetscape improvements and develop 24 units and office space within the existing 27,391 square foot building finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Ms. Carter and carried unanimously by a 6-0 vote (Vice-Chairman Goldstein was recused).

At this time, Vice-Chairman Goldstein re-entered the room and participated in the remainder of the meeting.

(3) Request to rezone property located on 42 Old County Home Road from Highway Business District to RM-8 Residential Multi-Family Medium Density District. The petitioner is Michael Ledford. The property is identified as PIN 9628-89-1121. Planner coordinating review – Blake Esselstyn.

Urban Planner Blake Esselstyn oriented the Commission to the site location and said the subject site for this rezoning petition is a 1.3-acre parcel near New Leicester Highway. The property fronts on Old County Home Road, and is near commercial and industrial uses, but the majority of the length of the road is residential in character. The property is currently zoned Highway Business, but owing to constraints such as the flood hazard areas shown at right (which will be discussed in more detail below), the development potential is limited.

Normally, when examining a standard rezoning petition, the applicant's plans for development do not figure prominently in the staff report (as all possible development scenarios should be considered), but in this case, the plans are pertinent to understanding the nature of the request. The applicant would like to develop four or five single-family homes on the property. The existing zoning allows single family dwellings, and a residential density of 32 units per acre, but the standards for lot width and front setback would not allow the traditional single-family configuration desired by the applicant. Similarly, the RM6 zoning classification to the west could theoretically allow for eight units, but the 70-foot minimum lot width would preclude the familiar single-family configuration desired. (The flood hazard areas also necessitate locating the structures closer to the road, eliminating any practicality for a flag-lot type configuration.) Staff also discussed the possibility of a Board of Adjustment variance or conditional zoning with the applicant, but his preference would be to not have the land encumbered with special conditions outside of what is normally allowed in the zoning district.

While the property's current zoning would allow for a wide range of commercial, office, and public uses, the most recent use was a single-family home. Analysis of the site and its constraints, in conjunction with the requirements imposed by the Highway Business development standards, indicate that the current zoning could invite a highly incongruous design—flood hazards pushing structures towards the street and suburban setbacks pushing structures away from the street could result in a relatively tall structure on a small footprint. Further, the character of the area does not fit the description of a "highway business" environment.

The UDO (7-8-16(a)) states, "The Highway Business District is established to address the needs of commercial development along major thoroughfares. Automobile oriented development is prevalent within this district and a wide range of commercial uses is permitted. Due to the dominance of the automobile, a major objective within this district is to preserve the traffic capacity of the thoroughfare." While New Leicester Highway qualifies as a major thoroughfare, this section of Old County Home Road is removed enough from the corridor that the objectives of the HB district are much less applicable.

By contrast, the UDO's stated intent for the RM8 district (from 7-8-6(a)) is "to permit a full range of medium density multi-family housing types along with single-family detached and attached residences. This district is intended to provide a transitional area between high density single-family and multi-family areas, and to permit medium density multi-family development in areas where existing conditions make higher density development inappropriate. Non-residential development normally required to provide the basic elements of a balanced and attractive residential area is also permitted."

The question of spot zoning was raised during the staff analysis, as the proposed zoning would be creating a relatively small single-parcel zoning district. However, counsel from the Legal Department as well as Planning staff investigation of precedents indicate that when the proposed district is as similar to its neighbor as RM8 is to RM6, the validity of such a zoning decision is fortified. In addition, spot zoning challenges are typically aroused when a proposed

rezoning would increase the potential development intensity, not from a downzoning such as this petition is requesting.

In addition to the flood hazard constraints mentioned above, it should be noted that there are other characteristics of the site which could be characterized as challenges for residential development. There is an active rail line less than 90 yards from the southeast property boundary, and the section of Old County Home Road to the west, while City-maintained, does not meet current City standards for pavement width, gutters, lighting, etc. That said, the current zoning would allow for a multi-story multi-family residential development at a significantly higher density than would the proposed zoning.

As of this writing, staff has received two communications from the public regarding the petition in question.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? The change is suitable for the subject area and consistent with other adjacent and nearby land uses.
- ? It appears to meet a smart-growth goal of the comprehensive plan better than the current zoning.

Con:

- ? Minor risk of a spot-zoning characterization.

Staff's analysis indicates that the proposed zoning district would support appropriate development, and prevent incompatible development better than the existing zoning, and, accordingly, staff recommends approval.

Michael Ledford, property owner, said he was limited to what he could do with the property and hoped to do some single-family affordable housing

Chairman Cannady opened the public hearing at 5:35 p.m.

Ms. Misty Gedlinske, resident on Old County Home Road, spoke in favor of the rezoning.

Chairman Cannady closed the public hearing at 5:37 p.m.

For future discussion, Mr. Minicozzi noted that the Commission has been discussing anomaly zonings (particularly Highway Business District) and he would support exploring the rezoning of the entire street, instead of doing it on a parcel-by-parcel basis.

Vice-Chairman Goldstein moved to recommend approval of the rezoning of 42 Old County Home Road from Highway Business District to RM-8 Residential Multi-Family Medium Density District finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Ms. Mathews and carried unanimously by a 7-0 vote.

- (4) A request to rezone a portion of property located off Sweeten Creek Industrial Park from RS-8 Residential Single Family High Density District to Industrial District. The petitioner is the City of Asheville. The property is identified as a portion of PIN 9657-51-1778. Planner coordinating review – Blake Esselstyn.**

Urban Planner Blake Esselstyn oriented the Commission to the site location and said that the subject area for this rezoning petition is about 7.5% of the entire parcel as shown in the Buncombe County Land Records. The parcel, owned by the City of Asheville, is on western edge of the Ray L. Kisiah Park, but the actively used amenities of the park consist only of the ballfields a significant distance from the site on the southern half of the parcel. The northern half is undeveloped woodland which shows little evidence of public use. There appear to be no trails in the area save a partially cleared path beneath power lines near the southern tip of the subject area.

The actual subject area for the rezoning is a triangle approximately 2.8 acres in size. Along the longest edge of the triangle, to the west, it is bordered by a business in the Sweeten Creek Industrial Park. The other two sides of the triangle about the City-owned land described above, with the northern tip of the triangle adjacent to the backyards of two residential properties. This rezoning is being initiated by the City for future economic development purposes. It would make the subject area's zoning consistent with the zoning to the west (Industrial) rather than that to the east (RS8). The proposed rezoning would result in a split-zoned property for the short term, but the City has stated an intention to divide off the industrially-zoned portion so that the property lines would follow the zoning district boundaries.

The northern half of the City-owned parcel currently provides a buffer between the industrial park and the residential neighborhoods to the east, but even if the subject area were to be developed with any allowed use in the future, the subject area would be more than 250 feet from the Ashwood Drive subdivision. Furthermore, a 30-foot buffer would be required along the edge of the development bordering residential zoning, totaling two-thirds of an acre, or almost a quarter of the subject property.

"Realizing the importance of industrial uses to the economy of the City of Asheville," the UDO states, "it shall be the purpose of the Industrial District to reserve land for existing and future industrial activities and for land uses that support industrial activities. Development standards are established to ensure that land uses located outside the Industrial District are not adversely affected by the negative impacts of industrial uses. Industrial Districts shall be located to capitalize on existing infrastructure where possible, such as transportation facilities and utilities."

The intent of the RS-8 Residential Single-Family High Density District is "to establish a high density per acre for single-family dwellings where public infrastructure is sufficient to support such development and to stabilize and protect the district's residential character in areas of existing high density single-family development while promoting a suitable environment for single-family living. Non-single-family development normally required to provide the basic elements of a balanced and attractive residential area is also permitted."

The City of Asheville Parks, Recreation, Cultural Arts and Greenways Master Plan from 2009 does not include any specific recommendations for changes to Kisiah Park; and more than 20 acres of unimproved parkland would remain available for future additions of facilities or programming. Staff feels the isolated position of the subject area, and the consistency of the proposed zoning with the area to the west, as well as the compliance with the comprehensive plan's goals regarding industrial land, are all factors in the petition's favor.

As of this writing, staff has received one communication from the public regarding the petition in question.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? The change is suitable for the subject area and consistent with other adjacent and nearby land uses, taking into account required buffering for any future development.

- ? It complies with important goals of the comprehensive plan.
- ? It would increase capacity for economic development in the City.

Cons:

- ? Small loss of undeveloped land on the outer boundary of a park.
- ? Would create a (likely to be temporary) split-zoning situation.

In recent years, there have been numerous rezoning petitions resulting in the loss of industrially zoned land in the City's jurisdiction. This petition stands to add industrial capacity, and for the reasons stated above, staff recommends approval.

In response to Ms. Mathews, Mr. Esselstyn explained that a ravine is just to the west of this property. She felt that topography should be thought about in terms of zoning and was concerned about the usability and feasibility of the land without a lot of redevelopment.

When Vice-Chairman Goldstein questioned the shape of the rezoning request, Economic Development Director Sam Powers said that the rezoning is being requested by the City at the request of Buncombe County and the shape is what Buncombe County requested.

Chairman Cannady opened the public hearing at 5:46 p.m. and when no one spoke, he closed the public hearing at 5:46 p.m.

Vice-Chairman Goldstein moved to recommend approval of the rezoning of a portion of property located off Sweeten Creek Industrial Park from RS-8 Residential Single Family High Density District to Industrial District finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Ms. Shriner and carried unanimously by a 7-0 vote.

(5) Request to rezone properties located at 86 Asheland Avenue from Regional Business District to Central Business District. The petitioner is George Wilds for 86 Asheland, LLC. The property is identified as PINs 9648-38-0833, 9648-38-0625, 9648-38-0529. Planner coordinating review – Alan Glines.

Urban Planner Alan Glines oriented the Commission to the site location and said that the 3 properties are located at the intersection of Asheland Avenue and Hilliard Avenue. The properties are adjacent to the southern and western border of the Central Business District zone (CBD). The parcels slope away from Asheland Avenue and have access to a small right of way called Federal Alley at the back side of the property.

Hilliard Avenue was traditionally the southern border of the downtown area but in 2001 the CBD zoning was extended to include land between Coxe Avenue and Biltmore Avenue down to Southside Avenue. At the time it was felt that the greatest potential for growth was in this section adjacent to the traditional downtown core. The section of Ashland was left out of that rezoning effort because the development was newer and strongly followed suburban development patterns with the parking field in front and buildings set back from the parcel lines. If rezoning had been pursued, most of the existing buildings would be non-conforming to CBD standards. With the addition of over ten years those buildings are older and appear to be reaching the end of their functional life.

When the request was reviewed at the Downtown Commission meeting, there was interest in looking into expanding the CBD along the entire Asheland Avenue corridor down to Southside Avenue. This is a project that the Downtown Commission would like to explore later in the year. Although a process specific for this has not been determined, it will include community meetings with affected property owners.

The Central Business District allows a wide range of residential and commercial uses with regulations in place for designing new structures so that new construction will fit in with the urban context of downtown. Most of the regulations for downtown development were identified in the Downtown Master Plan completed in 2009 and later adopted with some amendments into the UDO in 2010. Building heights are defined by the Height Zone map and a recommendation to include these parcels on the map accompanies this application. There is also a Key Pedestrian Streets map (KPS) and certain streets that are primary pedestrian corridors are included in the map. Properties along KPS have some additional design and development requirements to assure that new development addresses and enhances pedestrian activity. Hilliard Avenue and Asheland Avenue north of Hilliard are both on the KPS map. The Downtown Commission is recommending the extension of the KPS map to include the rezoning properties.

The Regional Business District allows a large array of commercial uses and permits large structures (greater than 100,000 square feet). Building height is limited to 80 feet. The development zone is more common in suburban areas along busy highways interchanges or thoroughfares. There is little character defining regulations in the ordinance and parking is allowed in front of buildings and at the sidewalk edge in regional business zones.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? The zoning change is compatible with the neighboring downtown area.
- ? Supports the goals of the Downtown Master Plan and the Strategic Operating Plan
- ? Supports the redevelopment of the south area of downtown

Cons:

- ? None noted.

The Downtown Commission reviewed the request to rezone the subject parcels at 86 Asheland Avenue as a policy discussion at their meeting on May 10, 2013, and voted 8-0 to support the request. Staff feels that the proposed zoning change is in keeping with City goals and interests in the downtown area and is supportive of it. One comment was received from the public regarding the proposal.

Chairman Cannady opened the public hearing at 5:57 p.m. and when no one spoke, he closed the public hearing at 5:57 p.m.

Ms. Carter agreed with Mr. Minicozzi regarding the Commission's discussion of anomaly zonings and supported exploring the rezoning of the entire street, instead of doing it on a parcel-by-parcel basis.

Ms. Mathews felt that it is important to involve the S. French Broad community when discussing rezoning of the area.

Mr. Minicozzi moved to recommend approval of the rezoning of 86 Asheland Avenue from Regional Business District to Central Business District finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Ms. Carter and carried unanimously by a 7-0 vote.

(6) Request to include parcels located at 86 Asheland Avenue in the Official Downtown Height Zone Map and Key Pedestrian Street Map found in Article 7-8-18 of the Unified Development Ordinance. The parcels include the PINs 9648-38-0833, 9648-38-0625, and 9648-38-0529. Planner coordinating review – Alan Glines

Urban Planner Alan Glines oriented the Commission to the site location and said the Planning and Development Department has received an application to rezone three parcels at 86 Asheland Avenue with that rezoning request being reviewed with a separate staff report. If the rezoning request is approved, there are several maps that apply to properties located in the downtown area that will affect these parcels.

Height Zone Map - The height zone map is adopted as a part of the Central Business district (7-8-18 of the UDO). The map identifies areas for the *tallest height zone* (265 feet) and the *intermediate height zone* (145 feet) and *buffer height* that moderates the tallest height zone along view shed corridors. The Downtown Commission recommends that the intermediate height zone be extended for these three parcels along Asheland Avenue. The intermediate height zone has been used at other locations that have served as the edge of the downtown CBD. If the study proceeds in the future to expand the CBD further south along Asheland Avenue, the height zone will be reviewed again.

Key Pedestrian Streets - The Key Pedestrian Streets map (KPS) is a designation along specific streets that serve as primary pedestrian linkages throughout the downtown area. When a street is designated a KPS, there are several development regulations in place that are designed to enhance the pedestrian experience at the sidewalk level. For example, on a KPS, buildings must provide 70% windows, doors or other openings at pedestrian level and parking garages must provide either an occupiable space for the first 20 feet of depth or provide fenestration details meeting regulations. Asheland Avenue is a KPS north of Hilliard Avenue already. The Downtown Commission recommends that the KPS designation extend as far as the three properties seeking rezoning. If Asheland Avenue is studied for further CBD expansion the issue of extending the KPS map will also receive discussion then.

The Downtown Commission recommended the placement of the intermediate height zone on and the extension of the key pedestrian streets map to the subject properties at their meeting on May 10, 2013, with a vote of 8-0. Staff concurs with this recommendation.

Chairman Cannady opened the public hearing at 6:07 p.m. and when no one spoke, he closed the public hearing at 6:07 p.m.

Mr. Minicozzi felt this will be a good opportunity to improve the intersection of Hilliard Avenue and Asheland Avenue.

Ms. Mathews moved to recommend approval the amendment of the Height Zone map to include the intermediate height for the subject properties and also approval of the amendment of the Key Pedestrian Streets map to extend the designation to the subject properties, finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Mr. Minicozzi and carried unanimously by a 7-0 vote.

Ms. Mathews moved to change the agenda to consider the subdivision modification as the next item on the agenda. This motion was seconded by Vice-Chairman Goldstein and carried unanimously.

- (7) A request for a Subdivision Modification to the width of a flag lot to allow for the development of a residential lot located on on Starmount Drive. The owner is Joseph D. Baxley and the contact is Steve Agan. The property is identified in the Buncombe County tax records as PIN 9639-30-3373. Planner coordinating review – Julia Fields**

Urban Planner Julia Fields oriented the Commission to the site location and said that she has received a request from the owner of property located along and off of Starmount Drive for a reduction to the flag pole width so that an existing lot can be developed.

The property in question, located off of Starmount Drive is zoned RS8 (Residential Single-Family High Density District). It is a .36 acre tract connected to Starmount Drive via a 10 foot wide "flagpole" portion of the lot (PIN 9639.30-3373). The history of the creation and transfers of this parcel since the original development of the Knollwood Subdivision in 1964 are detailed in a legal opinion. At the time of the creation of the original subdivision a Tract B, 10 feet in width, was platted as a connection to Starmount Drive from a larger Tract A. This tract was subject to 5 foot easements on each side of this small tract per the original subdivision. The larger portion of the subject parcel was subsequently divided off from the rest of Tract A, transferred, and combined, along with Tract B, to future owners without City of Asheville approval.

The property as it currently exists does not meet the requirement found in Section 7-11-2(j)(1)c. of the City of Asheville Code of Ordinances concerning flag lots. Specifically, this provision requires 20 feet in width (frontage) for a flag lot. Otherwise, the lot is compliant for development as a single-family lot. The nonconforming lot configuration was not created by the applicant who obtained the lot through a deed in lieu of foreclosure.

The legal opinion provided by Steve Agan, Esq., attorney for the property owner, concludes that the easements are still applicable to the flag pole portion of the lot. In this opinion, Mr. Egan states that the purpose of the easements was clearly for ingress and egress to the original larger tract from which the subject lot was carved out. It is his opinion, therefore, that such easements may be used as necessary for the creation of an access way to the larger portion of the subject property. The City Attorney's office has a differing opinion and feels that the easements were created only for utilities.

The use of the easements, however, may or may not be necessary for providing access to the larger, developable portion of the property. The City's driveway standards require a driveway apron to be a minimum width of twelve feet to a maximum of eighteen feet ten feet back from the edge of the pavement. A single-family residential driveway can be any width past the ten feet. The ten foot apron may be (and portions of it usually are) located in the City's right-of-way. In this specific situation, the required driveway apron could be completely placed within the right-of-way and the drive itself placed within the ten foot wide portion of the lot.

In order to develop the property, the applicant is seeking a subdivision modification from the required 20-foot width at the publicly maintained street to a 10 foot width for this flag pole lot.

Staff has had calls from adjoining property owners asking for information and expressing concerns about putting a driveway so close to their properties.

Staff is supportive of this recommendation provided that the driveway can be constructed without the use of the easements or if the use of the easements is resolved privately between any affected parties. This modification allows a property to be developed that otherwise would remain vacant.

Throughout discussion amongst the Commissioners, Ms. Fields responded to various questions/comments, some being, but are not limited to: how was the lot illegally subdivided; can a lot be subdivided and not provide legal access; does the lot have a different access; is there documentation that the 10-foot easement is to provide utility access to the lot in addition to the 5-foot easements on both sides; confirmation that if the subdivision modification is granted for a 10-foot driveway, that 5-foot easements on both sides would have to be resolved privately between adjoining property owners; and if the subdivision modification is granted, would the driveway permit be conditioned to only 10-feet.

Mr. Steve Agan, attorney representing the property owner Joseph Baxley who is requesting the subdivision modification, said that it was his opinion that the use of the 5-foot easements for ingress and egress is not clear according to the plat. However, Mr. Baxley's intention is to develop the 10-foot wide fee simple tract with gravel and compliance with the City's apron requirement. He hoped that the Commission would take into consideration that taxes have been paid on this undeveloped lot for the last 11 years. Using a plat, he said it appears that the subject lot (and another adjoining lot) was intended for a public park and that is why there is a 10-foot flagpole with a 5-foot easement on both sides.

Mr. Agan responded to various questions from the Commissioners, some being, but are not limited to: are there any other fee simple flagpoles in the subdivision; if the property was going to be developed as a public park, could the 10-foot flagpole been thought of as a walking path into the park; since the City at one time owned the property, what is the chain of property owners to the current owner; and how are the 5-foot easements addressed in the restrictive covenants of the subdivision.

Chairman Cannady opened the public hearing at 6:44 p.m.

The following individuals spoke against the subdivision modification for several reasons, some being, but are not limited to: a precedent will be set for other driveways into back lots; a gravel driveway will require a lot of maintenance; the area closest to the subject property already has water run-off issues which will affect the gravel driveway; agreement that the 5-foot easements are utility easements; will increase traffic in the neighborhood; will allow access from the subject lot and the adjoining bigger lot; there is currently access a different way for the subject property; the subject property is not suitable for residential development because of a ditch through the property; subject lot is better suited for additional yard space for adjoining property owners who might wish to purchase some of the property; and adjoining property owners to the flag lot will have to put up fences due to children and pets:

Mr. David Coxe, adjoining property owner
Mr. Roy Chapman, area property owner
Area property owner
Mr. Maurice Gettleman, adjoining property owner
Mr. Hal Brindley, adjoining property owner
Ms. Janet Jackson, adjoining property owner

Chairman Cannady closed the public hearing at 7:00 p.m. and announced a 5-minute recess.

In response to Ms. Carter, Interim Development Services Director Shannon Tuch said that a grading permit would be required so there would be some evaluation of stormwater and erosion control. If there was an issue; however, the neighbors' recourse would ultimately be a civil issue.

Vice-Chairman Goldstein didn't think this would be setting a precedent because this is an existing condition of a fee simple piece of property.

Mr. Edmonds felt that this was intended to be a 10-foot access to the subject property, as seen on the plat.

Chairman Cannady felt that 10-feet is not wide enough for a driveway. In addition, it was his opinion that it would be unfair to the two adjoining property owners of the flag lot to have a driveway constructed in between their properties.

Ms. Mathews felt that the 10-foot easement might have been planned for perhaps a sidewalk or other walkway. In any case though, she felt the drainage is an issue.

After further discussion, Mr. Edmonds moved to recommend approval of the subdivision modification concerning the width of a flag pole lot located on Starmount Drive subject to the conditions listed in the Technical Review Committee report finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Mr. Minicozzi and failed on a 4-3 vote, with Chairman Cannady, Ms. Carter, Ms. Mathews and Ms. Shriner voting "no" and Vice-Chairman Goldstein, Mr. Edmonds and Mr. Minicozzi voting "yes".

At 7:22 p.m., Chairman Cannady announced a 20-minute recess.

(8) Ordinance amending Chapter 7 of the Code of Ordinances to provide minor adjustments to the mobile food vending ordinance and to remove limitations on the number of permits allowed to operate in the downtown Central Business District area.

Urban Planner Alan Glines said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to provide minor adjustments to the mobile food vending ordinance and to remove limitations on the number of permits allowed to operate in the downtown Central Business District area.

He said that the mobile food vending ordinance was adopted late in the summer of 2011 and has been in place for over a year and half. An amendment was brought forward at the end of 2012 that added limitations on the number of truck permits in Biltmore Village and provided other small changes to the ordinance. The current amendment seeks to:

- ? Remove the limit on the number of trucks allowed in the downtown area (currently limited to ten trucks) but maintain the limit of a single truck per individual in Biltmore Village and in the downtown national register district area;
- ? Allow dining areas (with furniture) if a mobile food site is able to meet NC State Building code requirements for dining uses; and
- ? Adjust the language in the ordinance to maintain a prohibition of temporary facilities such as tents and restroom facilities at a mobile food site.

By the end of 2012 there were nine truck renewals in the downtown Central Business District (CBD) for the 2013 operating year and the tenth permit was quickly applied for and approved. There are no permits available now and truck operators asked the Downtown Commission to consider expanding the number allowed. After numerous discussions with the mobile food vending subcommittee and stakeholder group, it was noted that truck permits are naturally limited by the number of suitable mobile food sites. Locations are difficult to secure because it usually means displacing some other income-generating use on a lot such as surface parking. Given those intrinsic limiting factors, the proposal is to maintain the recently passed Biltmore Village limitation of two trucks but remove the downtown limit of ten. Related to this, the code would receive a minor amendment to maintain the current limit of a single truck permit allowed for an individual (or corporation) in Biltmore Village and in the downtown historic district (corresponding to the adopted map '*Traditional Downtown Core*'). In other areas an individual could be approved for more than a single truck permit. This amendment is felt to maintain the variety and diversity of mobile food vendors.

The second proposed change was a discussion to allow dining areas at mobile food sites. Since dining uses are allowed under the regulations of the NC State Building code it was thought that if a site could comply with those rules, then dining should not be prohibited by the ordinance. One of the compliance issues for a mobile food site will be access to restroom facilities by dining patrons. Some sites may be able to meet this requirement now or in the future with access to or proximity to restroom facilities either sharing a facility with a building on the

same site or by agreement with an adjacent building. Compliance will be reviewed with the application and site plan for the mobile food site.

The mobile food vending subcommittee also felt that temporary facilities such as tents and temporary restroom facilities should not be allowed at the mobile food site since this could negatively affect the look and character of the downtown area. These clarifications require additional changes to some general provisions of the ordinance.

Summary of Changes

- ? **Number of permits in the downtown area-** Remove language that limits truck permits in the downtown area but maintain the limit of two in Biltmore Village. An individual would not be allowed to operate more than a single truck in either Biltmore Village or the downtown national register district area.
- ? **Dining Areas-** Allow dining areas and related furniture at a mobile food site if requirements of the NC State Building Code can be met including access to restroom facilities.
- ? **Temporary Facilities-** Temporary facilities will continue to be prohibited at the mobile food site including temporary restrooms.

After extensive review and a recommendation from the Mobile Food Vending Subcommittee, the proposed changes were reviewed at the May 10 meeting of the Downtown Commission. After this date additional changes were clarified with the mobile food vending subcommittee and the Design Review Subcommittee and shared with the entire Commission. The Commission supports the proposed changes to the mobile food vending ordinance.

These proposed changes comply with the City Council Strategic Operating Plan goals of job creation and community development by supporting diversified job growth but with reasonable regulations to assure a balanced approach to managing the communities where business activities take place.

Pros:

- ? Allows the ordinance to be evaluated and changes proposed as concerns are addressed
- ? Allows the City code to remain relevant to adjustments in community interests

Cons:

- ? The nature of ordinances related to emerging businesses is such that they require review and adjusting over time

City staff recommends the Planning and Zoning Commission vote to approve the ordinance incorporating the changes to the City Code of Ordinances as outlined in the staff report.

Ms. Mathews wondered if this amendment was contradictory to the Commission's retreat discussion about increasing density in the urban downtown environment. She also felt that once furniture and dining areas are allowed, the mobile food vending is not mobile anymore. Mr. Glines explained that the mobile food kitchens are a temporary use and as the value of the surface parking lots where the kitchens are located goes up, the property owners would sell the property.

Chairman Cannady opened the public hearing at 8:01 p.m. and when no one spoke, he then closed it at 8:01 p.m.

Ms. Carter moved to recommend approval of an amendment to Chapter 7 of the Code of Ordinances to provide minor adjustments to the mobile food vending ordinance and to remove limitations on the number of permits allowed to operate in the downtown Central Business District area finding that the request is reasonable and consistent with the Comprehensive Plan ("encouraging and flourishing a small business development entrepreneur spirit ") and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Ms. Shriner and carried unanimously on a 7-0 vote.

(9) Ordinance amending Chapter 7 of the Code of Ordinances to clarify and modify current Sign Code standards

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to clarify and modify current Sign Code standards.

She said that during the past several months, the staff has determined that some adjustments to the sign regulations should be considered. These changes primarily allow more flexibility for businesses and developments from a practical perspective, without causing substantially more signage. The changes include:

Sec. 7-9-5(c)(1)(c): Signage for Manufactured Housing Communities

The proposed change to Sec. 7-9-5(c)(1)(c) would remove signage related language from the manufactured housing community overlay section and instead refer back to the applicable language for subdivision and multi-family development signs in Article 13. The change is proposed because the language is duplicative and changes are being proposed to this aspect in Article 13. The language change also simplifies some antiquated terminology.

Sec. 7-13-2-b-1: General sign requirements

The proposed change to Sec. 7-13-2-b-1 relates to general sign requirements, adding a provision requiring old sign structures to be removed before a new sign permit can be issued on a street. This has sometimes been a problem in the past and this change will clarify intent.

Sec. 7-13-3: Off-premises signs

There are two technical changes and one substantive change. A technical change is proposed to the title of Sec. 7-13-3 to more clearly reflect the content of the section; and a change to paragraph "6" corrects a technical error.

The more substantive change to this section regarding prohibited signs will allow the use of off-premise signs in multi-family residential districts; as some developments are situated in locations without direct frontage on a public road, and directional signage would be helpful for those looking for the development.

Sec. 7-13-4(b)(1)(c): Residential development signs

The proposed change to Sec. 7-13-4(b) will allow more than one entry sign for residential developments, although only one primary sign. This change will also provide helpful directional signage.

Sec. 7-13-4(b)(2)(j): Menu boards for fast food restaurants

The proposed change to Sec. 7-13-4(b)(2)(j) reflects general acceptance of the use of two menu boards for many fast food restaurants. The Board of Adjustment has approved this provision several times and it is becoming an industry standard.

Sec. 7-13-4(c): Signage for multi-tenant businesses

The proposed change to Sec. 7-13-4(c) once again reflects the usefulness of additional directional identification signage for development; in this case multi-tenant commercial development which has access points on more than one public road.

Sec. 7-13-5(b)(3)(d): Off-premise signs

The change proposed to Sec. 7-13-5(b)(3)(d) would allow an off premise sign to be used in proximity to multi-family zoned properties. This change also eases the ability to use directional identification signs, in this case for developments that do not have direct frontage on a primary public road.

Sec. 7-13-5(c): Second Tier Signs

The change proposed to Sec. 7-13-5(c) would allow an expansion of the use of second tier signs for properties that have no direct access on a major public thoroughfare. The code already allows sharing a sign, and this change would allow an independent sign if the property with the thoroughfare frontage does not have a sign and is willing to allow the use.

Sec. 7-13-8(b)(4): Sign amortization

The change to Sec. 7-13-8(b)(4) modifies the city's amortization standards for annexed areas. The impetus for the change comes from a large commercial center opened just a year or so before it was annexed. The current five year amortization created an understandable hardship for this business given the large size of its sign. Further, the five year amortization requirement has long been a source of substantial concern to many annexed properties – commercial, residential, and institutional. A check of a range of other cities reveals that longer amortization periods are not unusual, and a special provision for properties opened in close proximity to annexation seems to be a fair consideration. This change also deletes language related to the extraterritorial jurisdiction.

Throughout Ms. Daniel's presentation, discussion was held regarding several amendments which raised some sections needing further study/ clarification/ examples/ consideration.

Mr. Minicozzi moved to recommend approval of an amendment to Chapter 7 of the Code of Ordinances to clarify and modify current Sign Code standards as follows, finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Vice-Chairman Goldstein and carried unanimously on a 7-0 vote.

Approvals:

Sec. 7-9-5(c)(1)(c): Signage for Manufactured Housing Communities

Sec. 7-13-2-b-1: General sign requirements

Sec. 7-13-4(b)(2)(j): Menu boards for fast food restaurants - Amendment - Two external menu boards with one face are allowed per drive lane with a maximum of two per restaurant (in addition to its allowed signage as previously described). The total sign area shall not exceed 32 square feet. ...

Sec. 7-13-5(c): Second Tier Signs

Sec. 7-13-8(b)(4): Sign amortization

Sections needing further study/clarification/examples/consideration:

Sec. 7-13-3: Off-premises signs

Sec. 7-13-4(b)(1)(c): Residential development signs

Sec. 7-13-4(c): Signage for multi-tenant businesses

Sec. 7-13-5(b)(3)(d): Off-premise signs

(10) Ordinance amending Chapter 7 of the Code of Ordinances to clarify and modify regulatory standards for industrial uses

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to review thresholds and open space requirements for industrial projects.

She said the impetus for these proposed changes came from a recent question regarding a potential industrial site. We realized that the current process regulations for site plans or industrial uses are confusing. The code currently states that a Level II site plan review is required for industrial uses "with a gross floor area of 100,000 sq. ft. to an industrial development containing more than 15 acres". Yet there are no provisions in the Level III site plan standards for industrial uses with gross floor areas of over 100,000 square feet.

Upon reflection the staff has come to believe that these standards need further refinement as well as clarification as they affect several zoning districts with substantially different characters (including the changing nature of uses in the CI and River districts). Further, staff believes that the open space standards are too restrictive for industrial uses in industrially related zoning districts and they should be differentiated from the open space requirements for suburban office and commercial development.

Sec. 7-5-9: Review Processes for Industrial Uses

The proposed changes to Sec. 7-5-9 separate the processes for review of industrial uses in the Industrial district from the review of industrial uses in the Commercial Industrial and River districts, and clarify the standards for both.

Level III Reviews

The proposed changes to Sec. 7-5-9(a)(1)a(1) – Level III reviews – first make a technical change for consistency of wording with the same section in the Level II reviews, stating the section purpose and application.

The second and more substantive change adds a provision for Level III reviews for these very large industrial projects (over 100,000 sq. ft.) when they are located in the Commercial Industrial or River districts.

Staff proposes this change since there are many types of uses emerging in those districts in the City, and an industrial use may need closer scrutiny if it is proposed in the vicinity of those commercial or residential uses:

Level II Reviews

The proposed changes to Sec. 7-5-9(b)(1)(a)(1) amend the Level II site plan review process to remove the acreage threshold and clarify that Level II review will be the final approval step for industrial uses of 100,000 square feet or more in the Industrial district. It also establishes that Level II review will be the final approval step for industrial uses in the Commercial Industrial

and River districts for projects of 50,000 to 100,000 square feet. Any industrial projects below 50,000 square feet in these districts would remain a Level I review.

Sec. 7-11-4-c: Open Space Standards

The proposed change to Sec. 7-11-4-c modifies the required open space standards to reflect a different standard for industrially related uses as opposed to suburban commercial and residential uses. Currently all nonresidential projects require 15% of the project area to be reserved for open space.

That standard is not unusual for an office park, a school or church, a multi-family development, or a shopping center. Staff believes that it is unusual, or at least unusually high for an industrial use, especially when that use is in a zoning district which allows industrial uses. The staff believes a reduced open space standard for industrial uses is appropriate. Like the CBD, where this requirement is also exempted, the purpose of an industrial use in an industrial zone is more specialized in intent than residential and suburban type development.

Ms. Mathews said that part of open space is also heat island effect. Maybe an approach might be to have some quid pro quo to reduce to 5% of lot area if you do a vegetative roof, or some other way to not increase the heat island effect of that development. That may be something to ask the Sustainability Advisory Committee on Energy & the Environment Committee (SACEE). Ms. Daniel felt that was a good suggestion and will meet with SACEE to get their opinion.

Vice-Chairman Goldstein noted an error in the ordinance regarding Section 7-5-9 (b) (1) (a) (1), which Ms. Daniel said that she would correct prior to moving it forward to Council.

Chairman Cannady opened the public hearing at 8:54 p.m. and when no one spoke, he then closed it at 8:54 p.m.

Mr. Minicozzi moved to recommend approval of an amendment to Chapter 7 of the Code of Ordinances to clarify and modify regulatory standards for industrial uses, with Section 7-11-4 (c) (open space requirement) being removed from consideration at this time and the amendment to the ordinance discovered by Vice-Chairman Goldstein, finding that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Ms. Shriner and carried unanimously on a 7-0 vote.

(11) Discussion regarding urban agriculture and proposed Unified Development Ordinance amendments

Planning & Development Director Judy Daniel said that the City of Asheville has seen a substantial upswing in various types of food related agricultural production in the City. While growing food has always been permitted for home sites, and some types of animal (fowl primarily) and insects (bees) are permitted (through the animal control ordinances); there is increased interest in forms of production that go beyond those elements. The City Council indicated its support for this new trend when they adopted a Food Policy, with accompanying Action Plan in January.

A study of national trends revealed that Asheville's regulations regarding agriculture are already fairly supportive, but we have seen requests that go beyond current standards. Some of those are noted in the Food Policy Action Plan, and some have come to staff via those interested in newer forms of production. Some of these new trends do not require regulatory changes, such as growing plants inside of buildings, but others will require changes to the regulations. Staff is proposing several initial changes and is requesting input from the Commission and the public

before drafting proposed changes to the UDO. The public discussion may generate other ideas that can be included.

Current proposed changes include:

1. Changing the definition of agriculture (Sec. 7-2-5) to indicate a differentiation between raising plants vs. animals, since these uses are governed by separate ordinances.
2. Adding agricultural uses to the Table of Uses (Sec. 7-8-1(b)(2)(c)) to clarify that the use is allowed in all zoning districts. The use would be Permitted in most zones, and "S" (Permitted with special standards) in residential zones.
3. Create standards for Agriculture in residential zones in Sec. 7-16-1(c), pertinent to residential districts. These would relate to:
 - a. Anticipated level of commercial vehicle traffic.
 - b. Type of animals proposed (if applicable).
 - c. Allowing storage structures (storage sheds/barns, greenhouses) when there is no primary structure (home or other allowed use) on the property. Currently a primary structure is required.

Questions include whether or not this should be related to the proximity of the structures to the property where the producer lives. Another issue would be whether there should be a limit on the size of the structure. Currently *Accessory Structures* are allowed with special standards in residential zones inserted here for comparison:

"b. The footprint of accessory structures located on a lot shall not exceed the following maximum footprint(s):

Lot Size	One Accessory Structure	All Accessory Structures
Less than 1 acre	770 square feet	1,000 square feet
1 to 3 acres	1,200 square feet	1,600 square feet
More than 3 acres	No limit	No limit

4. Whether to allow a market stand as a temporary/seasonal use to sell products grown on the property. Questions would include how often it could be open and whether value added products could be sold.
5. Clarifying that storage structures for community gardens are allowed by right in all zoning districts (except, perhaps, in industrial districts).

A man who proposed to start an aquaponic urban farm in Oakley explained his proposal for a 3-4,000 sq ft greenhouse, along with fish will be in a separate building that will have a living roof. In addition, they will grow crops. In the future they would like to also have goats and chickens, along with tours. They would like to have a farmer's market on their property on Saturday and/or Sunday mornings where they would sell their goods. Initially they will sell to restaurants, grocery stores and flea markets. They will be as ecofriendly as possible.

Mr. Tony Hauser, landscape architect, and Mr. Josh O'Connor, Oakley resident, both felt it was important to have this type of development in the City and it will be a positive step to our community

There was discussion by the Commissioners, some being, but not not limited to: pesticides, parking on the property, whether they would sell only their produce or food made from their produce, whether it would be more appropriate to sell at a central location other than right on the urban farm; what happens to the City's tax base if there is tax exemptions to the land, involvement of the Sustainable Advisory Committee on Energy & the Environment; traffic, are there models in other areas, etc.

Ms. Daniel thanked the Commissioners for their discussion on this. She said that she would work some language into an ordinance and bring it back for their consideration.

(12) Discussion regarding interpretation of review thresholds for Level I, II and III projects

Interim Development Services Director Shannon Tuch said that Article V of the UDO describes review thresholds for development projects of varying scales. The larger and more complex project, the more detailed the review process becomes, up to and including Level III public hearings. Development review staff has recently encountered a number of large renovation projects that include substantial demolition and reconstruction of existing square footage. The UDO is relatively straightforward in its description of the review thresholds and specifically identifies:

*Proposed developments involving **new construction, additions, renovations, and changes of use** which fall into one or more of the following categories . . .*

The question is how to classify development when some portion of a building is demolished and then rebuilt (reconstruction). While it seems clear that the newly constructed square footage, including reconstructions, is accurately classified as **new construction**; however, it has also been historically interpreted to include this new square footage as an **addition** to the remaining portion of the shopping center, often triggering a higher level of review based on the standards regulating additions and review thresholds. Due to the potential economic impact of these higher level reviews and for policies to be applied fairly and equitably, staff is seeking input on the most appropriate assessment of these thresholds. Once input is received, a wording amendment establishing clarification may be pursued.

Example - A 150,000 s.f. strip mall is sold and the new owners want to pursue an extensive renovation. As part of this renovation, an old 50K s.f. anchor is torn down and replaced with a new 48K s.f. anchor.

Current Interpretation: The 150K s.f. center becomes a 100K s.f. center when the old building is demolished. The new 48K s.f. building is treated as an **addition** and combined with the square footage of the remaining center to meet the threshold for a Level III project – even though the resulting square footage is slightly less than what had originally been in place before the renovation.

Alternative Interpretation: the new construction is not included as an **addition** to existing shopping center and that it can be viewed as “replacement” of existing square footage. In this example, the new 48K s.f. building is considered **new construction** and is reviewed as a Level II since it is between 35K and 100K s.f. As a Level II project full site compliance is still required, however, the review process is shortened and simplified.

Considerations

- ? The former interpretation was applied, primarily out of concern over the cumulative impact of the renovation and new construction. Oftentimes, these sites have become underutilized or even partially vacant over time, and renovations are often expected to greatly increase the level of activity at the center so a higher level of review would provide the opportunity to examine the project for consistency with current city goals and standards.
- ? The alternative consideration is that the renovations with reconstructions are not increasing the total square footage of the center and that the center, at one point in time, had already gone through the higher level review (or something comparable for that time period) when it was originally developed. Since it has been through this process before, it would not be fair or appropriate to put it through this process again and may discourage reinvestment.

To consider an alternative interpretation would mean that some large sites may experience a substantial revitalization without the benefit of public review and input, which carries with it both benefits and concerns. Other city goals related to economic development and smart growth may also be used to help inform a position.

After discussion, Ms. Tuch said that she will continue to look at other options and may come back with a draft ordinance amendment. She was not hearing strong objection to the idea of making it easier for reinvestment so she may try to stay on that theme but also to also look at encouraging appropriate reviews for other projects.

(13) Discussion regarding the proposed changes to the Planning & Zoning Commission Rules of Procedure

It was the consensus of the Commissioners to continue this item until their next formal meeting.

(14) Discussion regarding a policy on requests for continuances

It was the consensus of the Commissioners to continue this item until their next formal meeting.

Other Business

At the request of Mr. Minicozzi, Ms. Daniel said that the maps associated with the zoning map study should be made available soon and provided to him. She said that she would add that item to the next meeting of the Commission.

Chairman Cannady announced (1) the July 3, 2013, regular meeting has been cancelled; and (2) the next regular meeting will be a mid-month meeting held on July 18, 2013, at 4:00 p.m. in the First Floor Conference Room in the City Hall Building.

Adjournment

At 9:40 p.m., Vice-Chairman Goldstein moved to adjourn the meeting. This motion was seconded by Ms. Shriner and carried unanimously.